

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

IN RE:

**RUSSELL ASHLEY BROOKS
ALISHA DIANE BROOKS,**

DEBTORS.

**Case No.: BK-15-80927-
Chapter 13**

OBJECTION TO CHAPTER 13 PLAN OF DEBTORS

Comes now the secured creditor, American Financial Resources, Inc., (“Creditor”) by their attorneys, Baer & Timberlake, P.C., and hereby objects to the Motion to Modify Plan and Modified Chapter 13 Plan filed by Debtors on January 18, 2019 (Docket No. 108 and 109). In support of this Objection, Creditor would show the Court as follows:

1. Creditor is the holder of a purchase money note and mortgage on the residence, ("mortgaged property") of Debtors. Said note and mortgage has an outstanding principal balance of \$112,981.80 plus accruing interest along with reasonable attorney fees and for all costs of the action.

2. The proposed Modified Chapter 13 Plan of the Debtors reflects an arrearage amount of \$0.00. Although this Court has entered an Order Disallowing Creditor’s Pre-Petition Arrearage in the sum of \$27,186.23, Creditor maintains that the Motion to Modify Plan filed herein by Debtors opens the door once again to providing for payment of the arrearage within the modified plan. Creditor disputes the lack of provision for payment of the Pre-Petition Arrearage and would propose that the correct arrearage amount is \$27,186.26 as evidenced by its Proof of Claim.

3. The Motion to Modify Plan proposes to skip the plan payments for one month of

time. This would result in a failure of the Debtors to maintain the ongoing monthly mortgage payments to Creditor and Creditor objects to this treatment.

4. Debtors had to amend their original plan once prior to obtaining a confirmed plan. Subsequently, Debtors have then sought to modify their plan on multiple occasions, the latest resulting in an Order Approving Modified Chapter 13 Plan (DE #105) on October 11, 2018. The basis for this latest Motion to Modify Plan now before the Court is that "...Russell Brooks learned on December 27, 2018 that his job was being terminated and he would be without pay for at least a month." However, Debtors give no indication of any future source of regular income or employment. It is essential to a Chapter 13 plan that the Debtors have a regular source of income and Debtors have given no such indication. If Debtors have new employment, they should amend their schedules to so reflect.

WHEREFORE, PREMISES CONSIDERED, secured creditor, American Financial Resources, Inc., moves the Court to reject the proposed Modified Chapter 13 Plan of Debtors and/or to grant adequate protection or such other and further relief as may be entitled.

AMERICAN FINANCIAL RESOURCES, INC.,

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Attorney for Creditor

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the above and foregoing Objection with postage thereon fully prepaid to the parties listed below on February 1, 2019.

Russell Ashley Brooks
Alisha Diane Brooks
1011 Mattox Ln
Sallisaw, OK 74955-6615

The following persons should have received notice of the above and foregoing instrument on the same day it was filed by the Court's CM/ECF Electronic Noticing System.

William Mark Bonney
Chapter 13 Trustee Office
Severs Bldg 215 State St Ste 1000
POB 1548
Muskogee, OK 74402

Terry D. Bigby
BIGBY LAW OFFICE
429 S Muskogee Ave
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